

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

JOHN ELLINGWOOD, JR., #12942-078

VS.

UNITED STATES OF AMERICA

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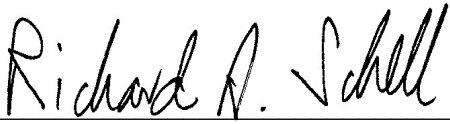
CIVIL ACTION NO. 4:16cv418  
CRIMINAL ACTION NO. 4:05cr152(1)

**MEMORANDUM ORDER ADOPTING THE  
UNITED STATES MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

The above-entitled and numbered civil action was referred to United States Magistrate Judge Kimberly C. Priest Johnson, who issued a Report and Recommendation concluding that Movant should be resentenced according to *Johnson v. United States*, — U.S. —, 135 S. Ct. 2551 (2015). The Report and Recommendation, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and no objections having been timely filed, the court concludes that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the court. It is accordingly

**ORDERED** that Movant's Motion to Vacate, Set Aside, or Correct Sentence by a Person in Federal Custody (Dkt. #1) pursuant to 28 U.S.C. § 2255 is **GRANTED** to the extent that the sentence imposed in Criminal Action Number 4:05cr152(1) is **VACATED**, and Movant shall be resentenced. All motions by either party not previously ruled upon are **DENIED**.

**SIGNED this the 10th day of November, 2016.**

  
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RICHARD A. SCHELL  
UNITED STATES DISTRICT JUDGE